

AO 91 (Rev. 11/11) Criminal Complaint

## UNITED STATES DISTRICT COURT

for the

Northern District of New York

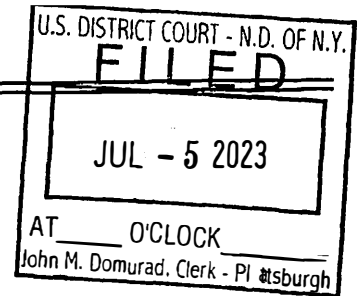
UNITED STATES OF AMERICA

v.

DANIEL GUTIERREZ-HERNAN,

Defendant.

Case No. 8:23-MJ-372 (GLF)



## CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief. On or about the date(s) of June 30, 2023, in the county of Franklin in the Northern District of New York the defendant violated:

*Code Section*

8 U.S.C. § 1324(a)(1)(A)(ii)

*Offense Description*

The Defendant, knowingly and in reckless disregard of the fact that aliens have come to, entered, or remained in the United States in violation of law, did transport, move and attempt to transport and move, such aliens within the United States by means of transportation or otherwise in furtherance of such violation of law.

This criminal complaint is based on these facts:

☒ Continued on the attached sheet.

*Complainant's signature*

U.S. Border Patrol Agent Adam M. Matott

*Printed name and title*

Attested to by the Affiant in accordance with Rule 4.1 of the Federal Rules of Criminal Procedure.

Date:

7-5-23

*Judge's signature*

City and State: Plattsburgh, New York

Hon. Gary L. Favro, U.S. Magistrate Judge

*Printed name and title*

*Continuation Sheet, United States v. Daniel GUTIERREZ-Hernan.*

This criminal complaint is based on the following facts:

On June 30, 2023, Burke Border Patrol Agents (BPAs) were patrolling in the Burke Station Area of Responsibility (BKB AOR) near Churubusco, NY. While conducting patrol operations in an unmarked Border Patrol Service vehicle, a BPA noticed a black Chevrolet Traverse that had been parked at Dick's County Store in Churubusco, NY. When the vehicle didn't leave from the convenience store for several minutes, the BPA conducted surveillance on it. The BPA witnessed a single adult male exit the Traverse and proceed towards the store. A few minutes later, the male subject got back in the driver's seat, and left the store parking lot. As the Traverse left the store parking lot, the BPA noticed that there were no other vehicle occupants besides the driver, and that the vehicle was bearing an Ohio registration. BPAs commonly encounter out-of-state registered vehicles in smuggling events, due to the fact that the drivers usually aren't from the immediate area.

The Traverse travelled northbound on Lost Nation Road. Lost Nation Road is a north-south traveling road, that ends at McNierney Road, less than one mile from the International Boundary with Canada. The land to the north of Lost Nation Road and McNierney Road is heavily wooded, providing a great deal of cover for people looking to elude law enforcement. BPAs commonly encounter human smuggling cases near Lost Nation Road due to its remoteness and easy access to main routes of egress from Burke, New York.

Approximately seven minutes later, BPAs spotted the same Traverse travelling southbound on Lost Nation Road. Upon reaching State Route 11, the Traverse travelled westbound on State Route 11. As the Traverse made its turn onto State Route 11, BPAs noticed there were several passengers in the vehicle, and that the rear end of the vehicle appeared to be squatting, as if it was heavily laden.

BPAs followed the vehicle, and conducted a vehicle stop in Chateaugay, NY in order to perform immigration inspections of the vehicle's occupants. BPAs approached the vehicle, and identified themselves as such. BPAs immediately noticed that the vehicle contained a driver and eight passengers. Upon the driver rolling down his window, the BPA smelled the odor of wet, musty air coming from the vehicle, and noticed that all the passengers pant legs were wet and muddy, as if they had just walked through a wet and dirty wooded area. The driver was identified as Daniel GUTIERREZ-Hernan. When asked his citizenship and immigration status, GUTIERREZ-Hernan claimed to be a Mexican citizen with no legal right to be in the U.S. When asked their citizenship and immigration status, all eight passengers claimed to be Mexican citizens with no legal right to be in the U.S. All eight passengers freely admitted to crossing the border illegally from Canada a couple hours prior.

At that time, all nine subjects were arrested and transported to the Burke Border Patrol Station for records checks, interviews, and processing.

At the station, records checks confirmed that GUTIERREZ-Hernan and all eight passengers are Mexican citizens with no legal status in the U.S.

One of the passengers, with the initials J.M.-Z. was read his *Miranda* warnings, and agreed to speak to agents without a lawyer present. In his interview, J.M.-Z. stated that when they were being pulled over by Border Patrol agents, GUTIERREZ-Hernan told them to "stay calm and say you are workers."